

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

CAROLYN BURRELL,
Plaintiff,

v.

UNIVERSITY OF TEXAS MEDICAL
BRANCH,
Defendant.

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Civ. Action No. 4:09-CV-03932

DEFENDANT’S MOTION TO DISMISS PLAINTIFF’S ORIGINAL COMPLAINT

TO THE HONORABLE GRAY H. MILLER:

Defendant University of Texas Medical Branch at Galveston, by and through its undersigned attorney, files this Motion to Dismiss pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure to dismiss Plaintiff’s Original Complaint. Plaintiff’s claims against Defendant should be dismissed because: (1) Plaintiff failed to file her claim under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, within the requisite statutory period; (2) Plaintiff’s claim under 42 U.S.C. § 1981 is barred by the Eleventh Amendment; and (3) Plaintiff has failed to state a claim under Title II of the American with Disabilities Act, 42 U.S.C. § 12101 *et seq.* The legal and factual grounds upon which Defendant relies in support of its motion are set forth in its supporting memorandum of law in accordance with Local Rule 7.1.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully requests that the Court issue an order dismissing Plaintiff's Original Complaint and awarding Defendant such costs as were incurred in bringing this motion.

Dated: February 22, 2010

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Attorney General of Texas

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**ATTORNEYS FOR DEFENDANT
UNIVERSITY OF TEXAS MEDICAL
BRANCH AT GALVESTON**

CERTIFICATE OF SERVICE

I hereby certify that a copy of *Defendant's Motion to Dismiss Plaintiff's Original Complaint* was served via *CM/ECF* on February 22, 2010, to:

John-Baptist A. Sekumade, Esq.
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/s/ Darren G. Gibson
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